

ESTTA Tracking number: **ESTTA697796**

Filing date: **09/23/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Westlake Chemical Corporation		
Entity	Corporation	Citizenship	Delaware
Address	2801 Post Oak Boulevard Suite 600 Houston, TX 77056 UNITED STATES		

Attorney information	George R. Schultz Schultz & Associates, P.C. 5400 LBJ Freeway Suite 1200 Dallas, TX 75240 UNITED STATES rschultz@grspc.com, nmarsh@grspc.com, docket@grspc.com, kneedham@grspc.com Phone:214-210-5940
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Applicant Information

Application No	86414056	Publication date	09/15/2015
Opposition Filing Date	09/23/2015	Opposition Period Ends	10/15/2015
Applicant	Westlake Plastics Company 490 West Lenni Road Lenni, PA 19052 UNITED STATES		

Goods/Services Affected by Opposition


Class 017. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Semi-finished compression molded polymers, namely, plastics, resins, polymeric materials in block, bar, slab, sheet, rod and tubular forms having high performance, static control, chemical resistant and/or temperature resistant properties for medical, engineering, defense, aerospace, food processing and other industrial uses; semi-finished extruded polymers, namely, plastics, resins, polymeric materials in rod, sheet, film, slab and tubular forms having high performance, static control, chemical resistant and/or temperature resistant properties for medical, engineering, defense, aerospace, food processing and other industrial uses


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	86575095	Application Date	03/24/2015
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	ENHANCING YOUR LIFE EVERY DAY
Design Mark	
Description of Mark	NONE
Goods/Services	Class 001. First use: First Use: 0 First Use In Commerce: 0 Chemicals for industrial, commercial and consumer use, namely, unprocessed artificial resins, polymers, unprocessed plastics, monomers, and chemical feed-stocks

U.S. Application No.	86575100	Application Date	03/24/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ENHANCING YOUR LIFE EVERY DAY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 017. First use: First Use: 0 First Use In Commerce: 0 Plastic in molded and extruded form for general industrial use, adhesives and sealants for general use		

U.S. Application No.	86575104	Application Date	03/24/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ENHANCING YOUR LIFE EVERY DAY		

Design Mark	<p style="text-align: center;">ENHANCING YOUR LIFE EVERY DAY</p>
Description of Mark	NONE
Goods/Services	<p>Class 019. First use: First Use: 0 First Use In Commerce: 0</p> <p>Plastic fencing products, namely, plastic fence sections, plastic pickets for fences, plastic fence profiles, plastic fence panels, plastic fence posts, plastic fence post caps, plastic gates for use as parts of fences; plastic decking products, namely, plastic planks to make decks, plastic deck tops, plastic deck surfaces, plastic deck profiles, plastic deck railings; plastic panels, namely, plastic flooring panels, plastic roof panels, plastic door panels, plastic wall panels; plastic docks, piers, and offshore platforms; plastic pipe products, namely, flexible and rigid plastic pipes and plastic pipe fittings; plastic construction products, namely, plastic frames for doors and windows, plastic railing sections, plastic posts for plastic railing, pickets for plastic railing, plastic fence panels, plastic spindles for plastic railing, the foregoing intended for use in building decks, patios, porches, balconies, roof decks, ramps, and gazebos</p>

U.S. Application No.	86575106	Application Date	03/24/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ENHANCING YOUR LIFE EVERY DAY		
Design Mark	<p style="text-align: center;">ENHANCING YOUR LIFE EVERY DAY</p>		
Description of Mark	NONE		
Goods/Services	<p>Class 042. First use: First Use: 0 First Use In Commerce: 0</p> <p>Consultant services, namely, engineering for others in the field of plastic products</p>		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	WESTLAKE POLYMERS LLC		
Goods/Services	chemicals for industrial, commercial and consumer use, namely, un-		

	processed artificial resins, polymers, unprocessed plastics, monomers, and chemical feedstocks; plastic in molded and extruded form for general industrial use, adhesives and sealants; plastic fencing products; plastic decking products; plastic panels; plastic docks, piers, platforms; plastic pipe products; plastic construction products and consultant services, namely engineering for others in the field of plastic products
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Related Proceedings	Opposition Nos. 91222493, 91222494
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Attachments	86575095#TMSN.png(bytes) 86575100#TMSN.png(bytes) 86575104#TMSN.png(bytes) 86575106#TMSN.png(bytes) Notice of Opposition .0296 092315.pdf(257447 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/george r. schultz/
Name	George R. Schultz
Date	09/23/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In the matter of Trademark
Application Serial No.: 86/414,056**

For the mark: LIFE IN POLYMERS

Published in the Official Gazette on: September 15, 2015

WESTLAKE CHEMICAL CORPORATION

Opposer,

v.

OPPOSITION NO. _____

WESTLAKE PLASTICS COMPANY

Applicant.

NOTICE OF OPPOSITION

Westlake Chemical Corporation (“Opposer”) believes that it has been and will be damaged by registration of the mark shown in Application No. 86/414,056 (the “’056 Application”), and therefore files this Notice of Opposition pursuant to 15 U.S.C. § 1063, and would respectfully show the Board the following:

I. Parties

1. Opposer is a Delaware corporation having a principal place of business at 2801 Post Oak Boulevard, Suite 600, Houston, Texas 77056.

2. Westlake Plastics Company (“Applicant”) is a Pennsylvania corporation having an address of 490 West Lenni Road, Lenni, Pennsylvania 19052. The correspondent of record for Applicant is Joseph C. Guagliardo of Pepper Hamilton LLP, Eighteenth and Arch Streets, 3000 Two Logan Square, Philadelphia, Pennsylvania 19103.

II. Standing

3. Opposer owns longstanding common law rights in the mark “ENHANCING YOUR LIFE EVERY DAY” (“Opposer’s Mark”) for use in association with chemicals for industrial, commercial and consumer use, namely, unprocessed artificial resins, polymers, unprocessed plastics, monomers, and chemical feedstocks; plastic in molded and extruded form for general industrial use, adhesives and sealants; plastic fencing products; plastic decking products; plastic panels; plastic docks, piers, platforms; plastic pipe products; plastic construction products and consultant services, namely engineering for others in the field of plastic products, collectively, “Opposer’s Goods and Services.” The date of first use of Opposer’s Mark is at least as early as March 7, 2007.

4. On March 24, 2015, Opposer filed applications in the United States Trademark Office to register Opposer’s Mark in international classes 1, 17, 19, and 42, having Serial Nos. 86/575,095, 86/575,100, 86/575,104, and 86/575,106, respectively.

5. Opposer has a number of wholly owned subsidiaries, one of which is Westlake Polymers LLC. Opposer provides Opposer’s Goods and Services through Westlake Polymers LLC and other wholly owned subsidiaries. As such, Opposer has common law rights in the trade name “WESTLAKE POLYMERS LLC” (“Opposer’s Trade Name”).

6. Since long before the date of filing of the ’056 Application, Opposer adopted and used Opposer’s Mark and Opposer’s Trade Name in association with Opposer’s Goods and Services. Opposer has continuously sold Opposer’s Goods and Services under Opposer’s Mark and Opposer’s Trade Name since each was adopted.

7. Opposer has expended substantial amounts of money, time, and effort in advertising and promoting Opposer’s Mark and Opposer’s Trade Name. The trade and

purchasing public have come to know and recognize Opposer's Mark and Opposer's Trade Name and the associated goods and services as originating from Opposer. Opposer's Mark and Opposer's Trade Name identify Opposer as a source of Opposer's Goods and Services and distinguish them from the goods of others.

8. Opposer's Mark is inherently distinctive or has acquired secondary meaning.

9. Opposer's Trade Name has been used in a way that is analogous to trademark use and that creates in the minds of the relevant purchasing public an association between Opposer's Trade Name and Opposer's Goods and Services. Consequently, Opposer's Trade Name is inherently distinctive or has acquired secondary meaning.

10. Opposer's Mark and Opposer's Trade Name have been used by Opposer to such an extent that the relevant purchasing public has come to associate Opposer's Mark and Opposer's Trade Name, jointly and separately, as indicators of a source of original origin for Opposer's Goods and Services.

11. Opposer has become well known in the industry and has acquired an excellent reputation and extensive goodwill for its high quality goods and services sold in connection with Opposer's Mark and Opposer's Trade Name. Opposer's Mark and Opposer's Trade Name are symbolic of Opposer's excellent reputation and extensive goodwill.

12. On information and belief, Applicant has adopted the mark "LIFE IN POLYMERS" for use in association with "semi-finished compression molded polymers, namely, plastics, resins, polymeric materials in block, bar, slab, sheet, rod and tubular forms having high performance, static control, chemical resistant and/or temperature resistant properties for medical, engineering, defense, aerospace, food processing and other industrial uses; semi-finished extruded polymers, namely, plastics, resins, polymeric materials in rod, sheet, film, slab

and tubular forms having high performance, static control, chemical resistant and/or temperature resistant properties for medical, engineering, defense, aerospace, food processing and other industrial uses” in international class 17. An application to register the mark shown in the ’056 Application was filed on October 3, 2014. The ’056 Application was filed under Section 1(b) as an intent-to-use application. The mark of the ’056 Application was published on September 15, 2015.

13. The goods listed in the ’056 Application are highly related to Opposer’s Goods and Services. On information and belief, the goods listed in the ’056 Application are intended to be provided to similar consumers under similar or identical advertising and move in the same or similar channels of trade as Opposer’s Goods and Services.

14. Opposer’s Mark and Opposer’s Trade Name, separately and together, compared to the mark shown in the ’056 Application are substantially similar and create the same commercial impression.

III. Grounds

Likelihood of Confusion 15 U.S.C. § 1052(d) *(Opposer’s Mark)*

15. Under § 2(d) of the Act, 15 U.S.C. § 1052(d), the mark shown in the ’056 Application so resembles Opposer’s Mark, previously used in the United States and not abandoned, as to be likely, when used on or in connection with the goods described in the ’056 Application to cause confusion, to cause mistake or to deceive.

16. The mark shown in the ’056 Application is confusingly similar to Opposer’s Mark. The similarity in sight, sound, and appearance between Opposer’s Mark and the mark shown in the ’056 Application creates a similar or identical commercial impression.

17. The description of goods in the '056 Application overlaps with Opposer's Goods and Services at least as to the goods of semi-finished plastic products.

Likelihood of Confusion 15 U.S.C. § 1052(d)
(Opposer's Trade Name)

18. Under § 2(d) of the Act, 15 U.S.C. § 1052(d), the mark shown in the '056 Application so resembles Opposer's Trade Name, previously used in the United States and not abandoned, as to be likely, when used on or in connection with the goods described in the '056 Application, to cause confusion, to cause mistake or to deceive.

19. The mark shown in the '056 Application is confusingly similar to Opposer's Trade Name. The similarity in sight, sound, and appearance between Opposer's Trade Name and the mark shown in the '056 Application creates a similar or identical commercial impression.

20. The description of goods in the '056 Application overlaps with Opposer's Goods and Services at least as to the goods of semi-finished plastic products.

Likelihood of Confusion 15 U.S.C. § 1052(d)
(Opposer's Mark conjoined with Opposer's Trade Name)

21. Under § 2(d) of the Act, 15 U.S.C. § 1052(d), the mark shown in the '056 Application so resembles the combination of Opposer's Mark and Opposer's Trade Name, previously used in the United States and not abandoned, as to be likely, when used on or in connection with the goods described in the '056 Application, to cause confusion, to cause mistake or to deceive.

22. The mark shown in the '056 Application is confusingly similar to Opposer's Mark in combination with Opposer's Trade Name. The similarity in sight, sound, and appearance

between Opposer's Mark in combination with Opposer's Trade Name and the mark shown in the '056 Application creates a similar or identical commercial impression.

23. The description of goods in the '056 Application overlaps with Opposer's Goods and Services at least as to the goods of semi-finished plastic products.

IV. Damage

24. Opposer has superior rights in Opposer's Mark and Opposer's Trade Name, separately and in combination, as compared to the rights of Applicant, if any, because Opposer has used Opposer's Mark and Opposer's Trade Name, separately and in combination, in commerce continuously and prior to the filing of the '056 Application by Applicant. Consequently, confusion, mistake or deception in the trade and in the minds of the consuming public between Opposer and Applicant at least as to the origin of the goods described in the '056 Application is likely to occur and be exacerbated with resulting damage to Opposer if the mark shown in the '056 Application is allowed to be registered.

V. Fees

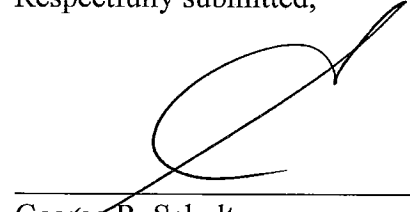
25. Pursuant to 37 C.F.R. 2.6(a)(17), the required fee of Three Hundred Dollars (\$300.00) has been electronically paid in conjunction with the electronic filing of this Notice.

26. The Board is authorized to charge additional required amounts or issue any credits for overpayments to Deposit Account No. 50-2225.

WHEREFORE, Opposer prays that registration of the mark as shown in Application No. 86/414,056 be denied.

Dated: September 23, 2015.

Respectfully submitted,



George R. Schultz
Texas Bar No. 17837500
Nicole R. Marsh
Texas Bar No. 24044653

SCHULTZ & ASSOCIATES, P.C.
5400 LBJ Freeway
Suite 1200
Dallas, Texas 75240
214-210-5940 telephone
214-210-5941 facsimile

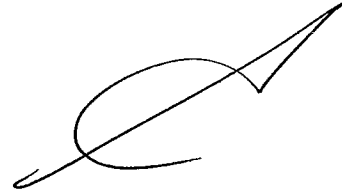
ATTORNEYS FOR OPPOSER
WESTLAKE CHEMICAL
CORPORATION

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing Notice of Opposition was served upon the persons listed below in the manner indicated on September 23, 2015:

Mr. Joseph C. Guagliardo
Pepper Hamilton LLP
Eighteenth and Arch Streets
3000 Two Logan Square
Philadelphia, Pennsylvania 19103

Via First Class Mail, Postage Prepaid

A handwritten signature in black ink, appearing to read 'George R. Schultz', written over a horizontal line.

George R. Schultz